

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

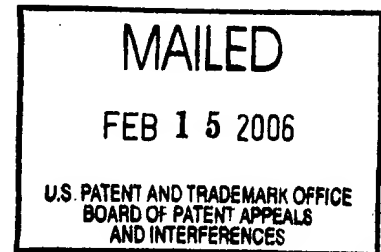
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ANN DE BOLSTER,
MARC LAMBRECHTS
and JOHAN AGNES EMILE WOUTERS

Appeal No. 2005-1882
Application No. 09/989,244

ON BRIEF



Before JERRY SMITH, GROSS, and MACDONALD, **Administrative Patent Judges.**

MACDONALD, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-5, 7, and 8. Claim 6 has been canceled.

Invention

Appellants' invention relates to an arrangement including a remote control device and at least a first electronic device, said remote control device having a first memory for storing a set of code data for controlling a further electronic device, which first memory is connected to an input of a signal generator to supply said code data to said input, which signal generator is adapted to generate, on the basis of said code data, control signals for controlling said further electronic device, and to transmit said control signals to said further electronic device, said first electronic device having a data input arranged to receive data from said remote control device.

Such arrangements are generally known from audio and video apparatuses. In the known arrangements the remote control device has a first memory which is loaded with code data retrieved from, for example, a smart card. Once the code data has been retrieved from the smart card and loaded into the first memory the smart card may be disposed of. To control the further electronic device the user presses or touches a key of the remote control device, which causes the code data assigned to the selected key to be retrieved from the first memory. The retrieved code data is supplied to the signal generator, which generates a control signal based on the retrieved code data. The generated signal is then transmitted to the electronic device to control the latter.

It is an object of the present invention to provide a more user-friendly way of generating a backup version of the code data.

An arrangement according to the invention is characterized in that said remote control device has a code data output unit connected to said first memory, said code data output unit having a further input for receiving an upload signal and being adapted to read, under control of said upload signal, at least a subset of said set of code data from said memory, said code data output unit being further adapted to transmit said subset burstwise to said data input of said first electronic device, which first electronic device includes a second memory for storing a received subset. By including a code data output unit in the remote control device and a second memory in the first electronic device, the code data as such can be retrieved from the first memory and transmitted to the second memory as code data in order to be stored in this second memory. In this way at least a second subset of the code data is available not only in the first memory but also in the second memory, which belongs to the first electronic device. Thus, when the code data in the remote control device is lost, for example due to a battery failure, the code data can be downloaded from the second memory and there is no need to buy a new smart card. Moreover, by sending the code data subset burstwise to the first electronic device, it is no longer necessary to send and retrieve them by pressing one key after the other on the remote control device.

Appellants' specification at page 1, lines 1-17, and page 1, line 24, through page 2, line 12.

Claim 1 is representative of the claimed invention and is reproduced as follows:

1. A arrangement including a remote control device and at least one further electronic device, said remote control device comprising a first memory for storing a set of code data for use in controlling said at least one further electronic device, said remote control device further comprising a signal generator having an input for receiving code data from said first memory, said signal generator generating, on the basis of said code data, control signals for controlling said at least one further electronic device, and transmitting said

control signals to a control signal input of said at least one further electronic device, characterized in that said at least one further electronic device includes a first electronic device having a data input for receiving data from said remote control device, and said remote control device further comprises a code data output unit connected to said first memory, said code data output unit having a further input for receiving an upload signal, said code data output unit reading, under control of said upload signal, at least a subset of said set of code data from said memory, transmitting said subset of said set of code data burst-wise to the data input of said first electronic device, said first electronic device including a second memory for storing said received subset of said set of code data.

References

The references relied on by the Examiner are as follows:

Harvey	6,130,625	October 10, 2000
Yang	6,133,847	October 17, 2000
Kitao et al. (Kitao)	6,160,491	December 12, 2000
Fong et al. (Fong)	6,309,275	October 30, 2001

Rejections At Issue

Claims 1-4 and 7 stand rejected under 35 U.S.C. § 103 as being obvious over the combination of Kitao and Fong.

Claim 5 stands rejected under 35 U.S.C. § 103 as being obvious over the combination of Kitao, Fong, and Harvey.

Claim 8 stands rejected under 35 U.S.C. § 103 as being obvious over the combination of Kitao, Fong, and Yang.

Throughout our opinion, we make references to the Appellants' briefs, and to the Examiner's Answer for the respective details thereof.¹

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of the Appellants and the Examiner, for the reasons stated *infra*, we reverse the Examiner's rejection of claims 1-5, 7, and 8 under 35 U.S.C. § 103.

Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants could have made but chose not to make in the brief have not been considered. We deem such arguments to be waived by Appellants [see 37 CFR § 41.37(c)(1)(vii) effective September 13, 2004 replacing 37 CFR § 1.192(a)].

I. Whether the Rejection of Claims 1-5, 7, and 8 Under 35 U.S.C. § 103 is proper?

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention as set forth in claims 1-5, 7, and 8. Accordingly, we reverse.

For purposes of our decision, we treat claim 1 as representative of all the claims on appeal. We note that Appellants' arguments with respect to claim 1 are incorporated by reference in the arguments made with respect to claims 5 and 8 (Brief at pages 9 and 11).

¹ Appellants filed an appeal brief on September 3, 2004. The Examiner mailed an Examiner's

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a **prima facie** case of obviousness. **In re Oetiker**, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). **See also In re Piasecki**, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. **In re Fine**, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. **Oetiker**, 977 F.2d at 1445, 24 USPQ2d at 1444. **See also Piasecki**, 745 F.2d at 1472, 223 USPQ at 788.

An obviousness analysis commences with a review and consideration of all the pertinent evidence and arguments. “In reviewing the [E]xaminer’s decision on appeal, the Board must necessarily weigh all of the evidence and argument.” **Oetiker**, 977 F.2d at 1445, 24 USPQ2d at 1444. “[T]he Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency’s conclusion.” **In re Lee**, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002).

With respect to independent claim 1, Appellants argue at page 5 of the brief, “neither Kitao et al. nor Fong et al. show or suggest transmitting all (or a subset) of the code data, used to form the control signals, from the remote control device to a first electronic device for storage in a memory of the first electronic device.” The Examiner responds at page 8 of the answer that, “the signal transmitted by the remote control [of Fong] is considered a code and not a control

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signal because on receiving the signal from the remote control a look [up] table is used to interpret the received signal in order to generate a control signal in order to execute a particular function (col. 8 lines 50-64 [of Fong]).”

We find Appellants’ argument persuasive. Our review of the claim shows that lines 5-9 of claim 1 set forth the relationship between the code data and the control signals. The relationship is that the control signals are those signals generated based on the code data at the generator/transmitter side. Thus, the Examiner’s attempt to define the signal based on what occurs at the receiving side is misplaced at best. The Examiner has failed to show how either Kitao or Fong alone or in combination teaches the claimed relationship of the code data and control signals on transmitting side of the system with the code data also being transmitted. The Examiner has failed to meet the initial burden of establishing a **prima facie** case of obviousness. Therefore, we will not sustain the Examiner’s rejection under 35 U.S.C. § 103.

Conclusion

In view of the foregoing discussion, we have not sustained the rejection under 35 U.S.C. § 103 of claims 1-5, 7, and 8.

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REVERSED

Jerry Smith

JERRY SMITH
Administrative Patent Judge

Anita Pellman Gross

ANITA PELLMAN GROSS
Administrative Patent Judge

Allen R. MacDonald

ALLEN R. MACDONALD
Administrative Patent Judge

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